

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (S/B) No. 190 of 2020

Pankaj Pathak

...Petitioner

Vs.

State of Uttarakhand and others

...Respondents

Shri Rakesh Thapliyal, learned senior counsel appearing for the petitioner's counsel Shri Xitij Kaushik.

Shri K.N. Joshi, learned deputy advocate general for the State of Uttarakhand-respondent nos. 1 and 2.

Shri Pankaj Purohit, learned counsel for respondent nos. 3 and 4.

Dated: 31st July, 2020

Coram: Hon'ble Ravi Malimath, A.C.J.

Hon'ble Narayan Singh Dhanik, J.

Ravi Malimath, A.C.J. (Oral)

Shri Rakesh Thapliyal, learned senior counsel appearing for the petitioner's counsel, submits that the impugned order dated 24.07.2020, relieving the petitioner, is passed by an authority that has no jurisdiction to pass such an order. Learned senior counsel would submit that the initial order of deputation dated 18.02.2019, in terms of Annexure No. 1, is passed by the State Government and, therefore, it is the State Government alone that has the authority to relieve the petitioner or to withdraw the said order of deputation.

2. Shri Pankaj Purohit, learned counsel for respondent nos. 3 and 4, submits that, irrespective of the question of law, there are various other activities indulged by the petitioner that does not make him suitable to occupy the position and, therefore, the petitioner has been relieved.

3. However, on hearing learned counsels, we are of the view that the question of law has not been answered by the respondents.

4. It is only the authority that has passed the order of deputation that could subsequently withdraw that order. An inferior authority cannot pass an order for relieving the petitioner. Hence, on this ground alone, we are of the view that the impugned order dated 24.07.2020 of relieving the petitioner is not sustainable in law.

5. Consequently, the impugned order dated 24.07.2020 passed by the third respondent, vide Annexure No. 6, is set-aside.

6. At this stage, Shri Pankaj Purohit, learned counsel for respondent nos. 3 and 4, submits that they may be granted liberty to pursue their legal remedies in accordance with law. Liberty, as sought, is granted.

7. The Writ Petition is disposed off accordingly.

(Narayan Singh Dhanik, J.)

31.07.2020

RP

(Ravi Malimath, A.C.J.)

31.07.2020